

SENATE BILL No. 344

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5; IC 3-6-6.5-2; IC 3-7; IC 3-10-1; IC 3-11; IC 3-11.5-4; IC 3-11.7; IC 3-12-3-11; IC 3-14.

Synopsis: Provisional ballots. Provides that a voter who is challenged may vote if the voter executes an affidavit affirming certain information under the penalties for perjury. Eliminates provisional ballots.

Effective: Upon passage.

Bowser

January 10, 2006, read first time and referred to Committee on Elections and Civic Affairs.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 344

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-5-4-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Except as provided in
3 subsection (e), but notwithstanding any other statute, whenever the
4 commission acts under IC 3-6-4.1-14 to approve a uniform election or
5 registration form for use throughout Indiana or to approve a revision to
6 an existing form, a person must use the most recent version of the form
7 approved by the commission to comply with this title after the effective
8 date of the commission's order approving the form.
9 (b) Except as provided in subsection (d) or (f), before an order
10 approving a form takes effect under this section, the election division
11 shall transmit a copy of each form or revised form approved by the
12 order to the following:
13 (1) Each circuit court clerk, if the commission determines that the
14 form is primarily used by a candidate, a county election board
15 member, a county or town political party, or for absentee or
16 provisional ballot purposes.
17 (2) Each county voter registration office, if the commission



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determines that the form is primarily used in voter registration.

(3) The state chairman of each major political party.

(4) The state chairman of any other political party who has filed a written request with the election division during the preceding twelve (12) months to be furnished with copies of forms.

(c) The election division, an election board, a circuit court clerk, a county voter registration office, or any other official responsible for receiving a filing under this title shall reject a filing that does not comply with this section.

(d) The commission shall specify the effective date of the form or revised form and may:

(1) delay the effective date of the approval of a form or revised form; and

(2) permit an earlier approved version of the form or an alternative form to be used before the effective date of the form; if the commission determines that an emergency requires the use of the form before copies can be transmitted to all persons entitled to receive copies of the form under subsection (b).

(e) This subsection applies to a form permitting an individual to apply for voter registration or to amend the individual's existing voter registration record. The commission may allow an earlier approved version of the form to be used if the:

(1) earlier version of the form complies with all other requirements imposed under NVRA or this title; and

(2) commission determines that the existing stock of the form should be exhausted to prevent waste and unnecessary expense.

(f) This subsection applies to a form that the commission determines is used primarily by the election division. The commission may provide that an order concerning a form described by this subsection is effective immediately upon adoption, without any requirement to distribute the form to other persons.

SECTION 2. IC 3-5-8-2, AS AMENDED BY P.L.230-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The statement required by section 1 of this chapter must contain the following:

(1) A statement of the qualifications that an individual must meet to vote in Indiana, including qualifications relating to registration.

(2) A statement describing the circumstances that permit a voter who has moved from the precinct where the voter is registered to return to that precinct to vote.

(3) A statement that an individual who meets the qualifications and circumstances listed in subdivisions (1) and (2) may vote in

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the election.

(4) A statement describing how a voter who is challenged at the polls may be permitted to vote.

(5) The date of the election and the hours during which the polls will be open, as required by 42 U.S.C. 15482.

(6) Instructions on how to vote, including how to cast a vote. ~~and how to cast a provisional ballot, as required by 42 U.S.C. 15482.~~

(7) Instructions for mail-in registrants and first time voters under IC 3-7-33-4.5 and 42 U.S.C. 15483, as required under 42 U.S.C. 15482.

(8) General information on voting rights under applicable federal and state laws ~~including the right of an individual to cast a provisional ballot~~ and instructions on how to contact the appropriate officials if these rights are alleged to have been violated, as required under 42 U.S.C. 15482.

(9) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation, as required under 42 U.S.C. 15482.

(10) A statement informing the voter what assistance is available to assist the voter at the polls.

(11) A statement informing the voter what circumstances will spoil the voter's ballot and the procedures available for the voter to request a new ballot.

(12) A statement describing which voters will be permitted to vote at the closing of the polls.

(13) Other information that the commission considers important for a voter to know.

SECTION 3. IC 3-6-6.5-2, AS ADDED BY P.L.230-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The program must consist of courses in several aspects of precinct election administration, including the following:

(1) The duties of precinct election officers and county election officials.

(2) The laws governing activity permitted and prohibited in polling places.

(3) The laws and procedures governing the operation of voting systems.

(4) The laws governing voter registration, absentee ballots, ~~provisional ballots~~, and the tabulation of ballots.

(5) Effective communication and problem solving techniques.

SECTION 4. IC 3-7-33-5, AS AMENDED BY P.L.81-2005,

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SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) When the county voter registration office receives an application for a new registration or an application with information that revises or adds information to the applicant's current voter registration record, the county voter registration office shall determine if the applicant appears to be eligible to register to vote based on the information in the application.

(b) As required under 42 U.S.C. 1973gg-6(a)(2), the county voter registration office shall send a notice to each person from whom the county voter registration office receives a voter registration application. The county voter registration office shall send a notice to the applicant at the mailing address provided in the application.

(c) The notice required by subsection (b) must set forth the following:

- (1) A statement that the application has been received.
- (2) The disposition of the application by the county voter registration office.
- (3) If the county voter registration office determines that the applicant appears to be eligible, the notice must state the following:

(A) The applicant is registered to vote under the residence address when the applicant receives the notice. An applicant is presumed to have received the notice unless the notice is returned by the United States Postal Service due to an unknown or insufficient address and received by the county voter registration office not later than seven (7) days after the notice is mailed to the applicant.

(B) The name of the precinct in which the voter is registered.

(C) The address of the polling place for the precinct in which the voter is registered.

(D) The voter's voter identification number.

- (4) In accordance with 42 U.S.C. 1973ff-1(d), if the county voter registration office has denied the application, the notice must include the reasons for the denial.

(d) The notice required by subsection (b) may include a voter registration card.

(e) If the notice is returned by the United States Postal Service due to an unknown or insufficient address, the county voter registration office shall determine that the applicant is ineligible and deny the application.

(f) During the seven (7) days following the mailing of the notice to the voter under this section, the county voter registration office shall

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1 indicate in the computerized list maintained under IC 3-7-26.3 that the
 2 application is pending. If the notice is not returned by the United States
 3 Postal Service and received by the county voter registration office at
 4 the expiration of the seven (7) day period under subsection (c), the
 5 county voter registration office shall indicate in the computerized list
 6 that the applicant is a registered voter.

7 (g) This subsection applies if the notice is mailed by the county
 8 voter registration office after the certified list is prepared under
 9 IC 3-7-29. If the seven (7) day period under subsection (c) expires
 10 before election day, and the applicant would otherwise have been
 11 included on the certified list, the county voter registration office shall
 12 prepare a certificate of error under IC 3-7-48 to note the addition of the
 13 voter to the certified list. If the seven (7) day period has not expired
 14 before election day, the county voter registration office shall notify the
 15 county election board. The county election board shall certify to the
 16 inspector of the precinct where the applicant resides that the
 17 applicant's voter registration application is pending, and that the voter,
 18 subject to fulfilling the requirements of IC 3-11-7, **relating to a voter**
 19 **who is challenged**, is entitled to cast a ~~provisional~~ ballot.

20 SECTION 5. IC 3-7-48-1 IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~(a)~~ Except as otherwise
 22 provided by NVRA or in this chapter, a person whose name does not
 23 appear on the registration record may not vote, unless the circuit court
 24 clerk or board of registration provides a signed certificate of error in
 25 the office where the permanent registration record is kept showing that
 26 the voter is legally registered in the precinct where the voter resides.

27 ~~(b) A person whose name does not appear on the registration record~~
 28 ~~may cast a provisional ballot as provided in IC 3-11-7.~~

29 SECTION 6. IC 3-10-1-7.2, AS ADDED BY P.L.109-2005,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 7.2. (a) Except as provided in subsection (e),
 32 a voter who desires to vote an official ballot at a primary election shall
 33 provide proof of identification.

34 (b) Except as provided in subsection (e), before the voter proceeds
 35 to vote in a primary election, a member of the precinct election board
 36 shall ask the voter to provide proof of identification. The voter must
 37 produce the proof of identification before being permitted to sign the
 38 poll list.

39 (c) If:

- 40 (1) the voter is unable or declines to present the proof of
 41 identification; or
 42 (2) a member of the precinct election board determines that the

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proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5; a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22, the voter may

(1) sign the poll list and

(2) receive a provisional ballot.

vote.

(e) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in a primary election.

SECTION 7. IC 3-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This subsection applies before January 1, 2004. A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record or on the certified copy of the registration record in a county with a computerized registration system may vote if the circuit court clerk or board of registration provides a signed certificate of error under IC 3-7-48 showing that the person is a registered voter of the precinct.

(b) This subsection applies after December 31, 2003. A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record of the precinct or on the certified copy of the registration record prepared under IC 3-7-29 may

(1) vote if the county voter registration office provides a signed certificate of error. or

(2) cast a provisional ballot under IC 3-11-7, as provided by 42 U.S.C. 15482.

SECTION 8. IC 3-11-3-11, AS AMENDED BY P.L.230-2005, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The county election board shall deliver the following to each inspector or the inspector's representative:

(1) The supplies provided for the inspector's precinct by the election division.

(2) The local sample ballots, the ballot labels, if any, and all poll lists, registration lists, and other supplies considered necessary to conduct the election in the inspector's precinct.

(3) The local ballots printed under the direction of the county election board as follows:

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(A) In those precincts where ballot card voting systems are to be used, the number of ballots at least equal to one hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list.

(B) In those precincts where electronic voting systems are to be used, the number of ballots that will be required to be printed and furnished to the precincts for emergency purposes only.

~~(C) Provisional ballots in the number considered necessary by the county election board.~~

(4) Twenty (20) ink pens suitable for printing the names of write-in candidates on the ballot or ballot envelope.

(5) Copies of the voter's bill of rights for posting as required by 42 U.S.C. 15482.

~~(6) Copies of the instructions for a provisional voter required by 42 U.S.C. 15482. The county election board shall provide at least the number of copies of the instructions as the number of provisional ballots provided under subdivision (3).~~

SECTION 9. IC 3-11-3-12, AS AMENDED BY P.L.221-2005, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. ~~(a)~~ The ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a strong and stout paper envelope or bag, which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the ballots. The ballot packages may not be opened until:

(1) they have been delivered to the precinct election board to which they are directed; and

(2) the precinct election board is fully organized and ready for the reception of votes.

~~(b) The provisional ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a strong and stout paper envelope or bag, separate from the bag described in subsection (a), which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the provisional ballots. The provisional ballot packages may not be opened until:~~

~~(1) they have been delivered to the precinct election board to which they are directed; and~~

~~(2) the precinct election board is fully organized and ready to~~

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receive votes.

SECTION 10. IC 3-11-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. The circuit court clerk, if time permits before the ballots are delivered to the precincts, the poll clerks, or members of the absentee voter board, shall put one (1) of the pasters required by sections 29 and 29.5 of this chapter in the proper place on each ballot label bearing the name of the former candidate and on each paper ballot ~~provisional ballot~~, or ballot card to be voted in the precinct before they sign their initials on the ballot. The circuit court clerk shall put one (1) of the pasters on each ballot to be voted by an absentee voter before the clerk signs the ballot.

SECTION 11. IC 3-11-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) Each county election board shall preserve the unused ballots that are left over after supplying the precincts, as prescribed by section 11 of this chapter. The ballots shall be preserved until expiration of the time for filing a contest or recount petition under IC 3-12.

(b) The board shall then destroy all of the ballots, except for one (1) regular ballot. ~~and one (1) provisional ballot.~~

SECTION 12. IC 3-11-3-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. ~~(a)~~ The county election board shall securely paste the one (1) regular ballot that was preserved under section 31 of this chapter in the election record. ~~immediately before the provisional ballot placed under subsection (b):~~ The board shall also enter below the ballot the number of ballots:

- (1) printed by the board;
- (2) delivered to each messenger; and
- (3) destroyed by the board.

~~(b) The county election board shall securely paste the one (1) provisional ballot that was preserved under section 31 of this chapter in the election record immediately after the regular ballot placed in the record under subsection (a) and immediately before the place where the vote is to be recorded. The board shall also enter below the provisional ballot the number of provisional ballots:~~

- ~~(1) printed by the board;~~
- ~~(2) delivered to each messenger; and~~
- ~~(3) destroyed by the board.~~

SECTION 13. IC 3-11-4-17.5, AS AMENDED BY P.L.103-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board (or the absentee voter board in the office of the circuit court clerk) shall determine if:

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(1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;

(2) the information set forth on the application appears to be true; and

(3) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination.

If the application is submitted by a voter wanting to cast an absentee ballot under IC 3-11-10-26, the voter shall be permitted to cast an absentee ballot. ~~and the voter's absentee ballot shall be treated as a provisional ballot.~~

(b) If:

(1) the applicant is not a voter of the precinct according to the registration record; or

(2) the application as completed and filed:

(A) contains a false statement; or

(B) does not otherwise comply with Indiana or federal law; as alleged under section 18.5 of this chapter, the county election board shall deny the application.

(c) This subsection applies to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

(1) not later than forty-eight (48) hours after the application is denied; and

(2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

(d) If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

(1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and

(2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise

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1 complies with this chapter. The board shall add a notation to the
 2 application and to the record compiled under section 17 of this chapter
 3 indicating that the applicant will be required to provide additional
 4 documentation to the county voter registration office under
 5 IC 3-7-33-4.5 before the absentee ballot may be counted.

6 (e) If the applicant:

- 7 (1) is a voter of the precinct according to the registration record;
- 8 (2) states on the application that the applicant resides at an
 9 address that is within the same precinct but is not the same
 10 address shown on the registration record; and
- 11 (3) ~~after December 31, 2005~~; provides a voter identification
 12 number on the application to permit transfer of registration under
 13 IC 3-7-13-13;

14 the county election board shall direct the county voter registration
 15 office to transfer the applicant's voter registration address to the
 16 address within the precinct shown on the application. The applicant's
 17 application for an absentee ballot shall be approved if the applicant is
 18 otherwise eligible to receive the ballot under this chapter.

19 SECTION 14. IC 3-11-4-18, AS AMENDED BY P.L.103-2005,
 20 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 18. (a) If a voter satisfies any of the
 22 qualifications described in IC 3-11-10-24 that entitle a voter to cast an
 23 absentee ballot by mail, the county election board shall, at the request
 24 of the voter, mail the official ballot, postage fully prepaid, to the voter
 25 at the address stated in the application.

26 (b) If the county election board mails an absentee ballot to a voter
 27 required to file additional documentation with the county voter
 28 registration office before voting by absentee ballot under this chapter,
 29 the board shall include a notice to the voter in the envelope mailed to
 30 the voter under section 20 of this chapter. The notice must inform the
 31 voter that the voter must file the additional documentation required
 32 under IC 3-7-33-4.5 with the county voter registration office not later
 33 than noon on election day for the absentee ballot to be counted. ~~as an~~
 34 ~~absentee ballot and that, if the documentation required under~~
 35 ~~IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the~~
 36 ~~ballot will be processed as a provisional ballot.~~ The commission shall
 37 prescribe the form of this notice under IC 3-5-4-8.

38 (c) Except as provided in section 18.5 of this chapter, the ballot
 39 shall be mailed:

- 40 (1) on the day of the receipt of the voter's application; or
- 41 (2) not more than five (5) days after the date of delivery of the
 42 ballots under section 15 of this chapter;

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1 whichever is later.

2 (d) In addition to the ballot mailed under subsection (c), the county
3 election board shall mail a special absentee ballot for overseas voters.

4 (e) Except as provided in section 18.5 of this chapter, the ballot
5 described in subsection (d):

6 (1) must be mailed:

7 (A) on the day of the receipt of the voter's application; or

8 (B) not more than five (5) days after the latest date for delivery
9 of the ballots under section 13(b) of this chapter applicable to
10 that election;

11 whichever is later; and

12 (2) may not be mailed after the absentee ballots described by
13 section 13(a) of this chapter have been delivered to the circuit
14 court clerk or the clerk's authorized deputy.

15 ~~(f) This subsection applies after December 31, 2005:~~ As required by
16 42 U.S.C. 15481, an election board shall establish a voter education
17 program (specific to a paper ballot or optical scan ballot card provided
18 as an absentee ballot under this chapter) to notify a voter of the effect
19 of casting multiple votes for a single office.

20 ~~(g) This subsection applies after December 31, 2005:~~ As provided
21 by 42 U.S.C. 15481, when an absentee ballot is mailed under this
22 section, the mailing must include:

23 (1) information concerning the effect of casting multiple votes for
24 an office; and

25 (2) instructions on how to correct the ballot before the ballot is
26 cast and counted, including the issuance of replacement ballots.

27 SECTION 15. IC 3-11-8-11, AS AMENDED BY P.L.221-2005,
28 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 UPON PASSAGE]: Sec. 11. ~~(a)~~ When the hour for closing the polls
30 occurs, the precinct election board shall permit all voters who:

31 (1) have passed the challengers and who are waiting to announce
32 their names to the poll clerks for the purpose of signing the poll
33 list;

34 (2) have signed the poll list but who have not voted; or

35 (3) are in the act of voting;

36 to vote. In addition, the inspector shall require all voters who have not
37 yet passed the challengers to line up in single file within the chute. The
38 poll clerks shall record the names of the voters in the chute, and these
39 voters may vote unless otherwise prevented according to law.

40 ~~(b) This subsection applies if a court order (or other order) has been~~
41 ~~issued to extend the hours that the polls are open under section 8 of this~~
42 ~~chapter. As provided in 42 U.S.C. 15482, the inspector shall identify~~

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the voters who would not otherwise be eligible to vote after the closing of the polls under subsection (a) and shall provide a provisional ballot to the voters in accordance with IC 3-11-7.

SECTION 16. IC 3-11-8-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) A voter challenged under section 20 of this chapter may vote if the voter makes an affidavit in writing under section 23 of this chapter. and either of the following applies:

(1) The voter's name appears on the registration list.

(2) The voter does one (1) of the following:

(A) Produces a certificate of error issued by a registration official of the county in accordance with IC 3-7-48 showing that the voter is registered in the precinct where the voter resides and offers to vote.

(B) Produces an affidavit executed under IC 3-10-10 or IC 3-10-11 if the voter executed an affidavit under those provisions.

(C) Makes an oral or a written affirmation under IC 3-10-12.

(b) After December 31, 2003, a voter challenged under section 20 of this chapter:

(1) whose name does not appear on the registration list; and

(2) who is not permitted to cast a vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12;

is entitled to cast a provisional ballot under IC 3-11-7 if the voter makes an affidavit in writing that the voter is a legal voter of the precinct.

SECTION 17. IC 3-11-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The affidavit of a challenged voter required by section 22 of this chapter must be sworn and affirmed and must contain the following:

(1) A statement that the voter is a citizen of the United States.

(2) The voter's date of birth to the best of the voter's information and belief.

(3) A statement that the voter has been a resident of the precinct for thirty (30) days immediately before this election or is qualified to vote in the precinct under IC 3-10-10, IC 3-10-11, or IC 3-10-12.

(4) The voter's name and a statement that the voter is generally known by that name.

(5) A statement that the voter has not voted and will not vote in any other precinct in this election.

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(6) The voter's occupation.

(7) The voter's current residential address, including the street or number and if applicable, the voter's residential address thirty (30) days before the election, and the date the voter moved.

(8) A statement that the voter understands that making a false statement on the affidavit is punishable under the penalties of perjury.

(9) ~~After December 31, 2003~~, If the individual's name does not appear on the registration list and the individual is not entitled to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12, a statement that the individual registered to vote and where the individual believes the individual registered to vote during the registration period described by:

(A) IC 3-7-13-10; or

(B) IC 3-7-36-11, if the voter registered under that section.

SECTION 18. IC 3-11-8-25.1, AS AMENDED BY P.L.109-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.1. ~~(a) This section applies after December 31, 2005.~~

~~(b)~~ (a) Except as provided in subsection ~~(f)~~, (e), a voter who desires to vote an official ballot at an election shall provide proof of identification.

~~(c)~~ (b) Except as provided in subsection ~~(f)~~, (e), before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

~~(d)~~ (c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

~~(e)~~ (d) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may

~~(f)~~ sign the poll list and

~~(2) receive a provisional ballot: vote.~~

~~(f)~~ (e) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election.

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~~(g)~~ **(f)** After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) Except as provided in subsection ~~(f)~~; **(k)**, the voter's current residence address.

~~(h)~~ **(g)** The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide or update the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

~~(i)~~ **(h)** The poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to provide proof of identification.

~~(j)~~ **(i)** In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

~~(k)~~ **(j)** If, in a precinct governed by subsection ~~(h)~~; **(g)**:

(1) the poll clerk does not execute a challenger's affidavit; or

(2) the voter executes a challenged voter's affidavit under section 22 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote.

~~(l)~~ **(k)** Each line on a poll list sheet provided to take a voter's current address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.

SECTION 19. IC 3-11-8-25.2, AS AMENDED BY P.L.109-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: Sec. 25.2. ~~(a) This section applies after December 31, 2005.~~

~~(b)~~ **(a)** The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, in addition to the proof of identification required by section ~~25.1(b)~~ **25.1(a)** of this chapter, a piece of identification described in subsection ~~(c)~~ **(b)** to the poll clerk.

~~(c)~~ **(b)** As required by 42 U.S.C. 15483, and in addition to the proof of identification required by section ~~25.1(b)~~ **section 25.1(a)** of this chapter, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

- (1) A current and valid photo identification.
- (2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

~~(d)~~ **(c)** If a voter presents a document under subsection ~~(c)~~ **(b)**, the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

~~(e)~~ **(d)** If a voter required to present documentation under subsection ~~(c)~~ **(b)** is unable to present the documentation to the poll clerk while present in the polls, ~~the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11-7-2; the poll clerk shall challenge the voter as prescribed by this chapter. If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may sign the poll list and vote.~~

~~(f)~~ The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11-7.

SECTION 20. IC 3-11-8-25.5, AS AMENDED BY P.L.109-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.5. If an individual signs the individual's name and either:

- (1) signs the individual's address; or

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(2) ~~after December 31, 2005~~, checks the "Address Unchanged" box;
 on the poll list under section ~~25~~ or 25.1 of this chapter and then leaves the polls without casting a ballot, ~~or after casting a provisional ballot~~; the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 21. IC 3-11-10-4.5, AS AMENDED BY P.L.221-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) Upon receipt of an absentee ballot from a voter required to provide additional information to the county voter registration office under IC 3-7-33-4.5, the county election board shall contact the county voter registration office to determine if the additional information has been filed with the office by the voter.

(b) If the voter has filed the information with the county voter registration office, the county election board shall add a notation to the application indicating that the required information has been filed and that the absentee ballot may be counted if the ballot otherwise complies with this article.

(c) If the voter has not filed the information with the county voter registration office, the county election board shall add a notation on the application filed by a voter described under subsection (b) and on the envelope provided under this chapter reading substantially as follows:

"INSPECTOR: AS OF (insert date absentee ballot application approved) THIS VOTER WAS REQUIRED TO FILE ADDITIONAL DOCUMENTATION WITH THE COUNTY VOTER REGISTRATION OFFICE BEFORE THIS BALLOT MAY BE COUNTED. CHECK THE POLL LIST AND COUNTY ELECTION BOARD CERTIFICATION TO SEE IF THE VOTER HAS FILED THIS INFORMATION. IF NOT, **DO NOT PROCESS AS A PROVISIONAL BALLOT IF THIS BALLOT.**" ~~OTHERWISE COMPLIES WITH INDIANA LAW."~~

SECTION 22. IC 3-11-10-16.5, AS AMENDED BY P.L.221-2005, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.5. If the inspector finds under section 16(a) of this chapter that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, ~~but that all of the other findings listed under section 16(a) of this chapter apply~~, the inspector shall direct that the absentee ballot **not** be processed. ~~as a provisional ballot under IC 3-11-7.~~

SECTION 23. IC 3-11-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. The vote of an absentee voter may be challenged at the polls for the reason that the

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absentee voter is not a legal voter of the precinct where the ballot is being cast. ~~The challenge under this section regarding the absentee ballot must be determined using the procedures for counting a provisional ballot under IC 3-11-7. The precinct election board may hear and determine a challenge under this section as though the ballot were cast by the voter in person.~~

SECTION 24. IC 3-11-10-26, AS AMENDED BY P.L.103-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

(1) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

(1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and

(2) provide proof of identification;

before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

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(g) ~~This subsection applies after December 31, 2005.~~ As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be ~~permitted to~~ **challenged as prescribed by IC 3-11-8. If the voter executes a challenged voter's affidavit under IC 3-11-8-22, the voter may cast an absentee ballot. and the voter's absentee ballot shall be treated as a provisional ballot.**

SECTION 25. IC 3-11-10-35, AS AMENDED BY P.L.221-2005, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. ~~(a) This section does not apply to an absentee ballot required to be treated as a provisional ballot under IC 3-11-7.~~

~~(b)~~ If an envelope containing an absentee ballot has not been opened before the close of the polls, then the envelope may not be opened without an order of a court.

SECTION 26. IC 3-11.5-4-12, AS AMENDED BY P.L.221-2005, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) If the absentee ballot counters find under section 11 of this chapter that:

- (1) the affidavit is properly executed;

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- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter is registered and is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;
- (5) the absentee voter has not voted in person at the election; and
- (6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

the absentee ballot counters shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) If the absentee ballot counters find under subsection (a) that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, ~~but that all of the other findings listed under subsection (a) apply;~~ the absentee ballot ~~shall may not~~ be processed. ~~as a provisional ballot under IC 3-11-7.~~

(c) The absentee ballot counters shall then deposit the ballots in a secure envelope with the name of the precinct set forth on the outside of the envelope. After the absentee ballot counters or the county election board has made the findings described in subsection (a) or section 13 of this chapter for all absentee ballots of the precinct, the absentee ballot counters shall remove all the ballots deposited in the envelope under this section for counting under IC 3-11.5-5 or IC 3-11.5-6.

SECTION 27. IC 3-11.5-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast.

(b) Before the inspector prepares to mark the poll list to indicate that an absentee ballot cast by the voter has been received by the county election board according to a certificate delivered to the polls under section 1 or section 8 of this chapter, the inspector shall notify the challengers and the pollbook holders that the inspector is about to mark the poll list under this section. The inspector shall provide the challengers and pollbook holders with the name and address of each voter listed in the certificate so that the voter may be challenged under this article.

(c) The challenge under this section must be determined using the

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1 procedures for counting a provisional ballot under IC 3-11-7.
2 **IC 3-11-10.**

3 SECTION 28. IC 3-12-3-11, AS AMENDED BY P.L.230-2005,
4 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 11. (a) The return printed by the automatic
6 tabulating machines, along with the return of votes by absentee ~~and~~
7 ~~provisional~~ voters, constitutes the official return of each precinct. Upon
8 completion of the count, the return is open to the public.

9 (b) This subsection applies if the votes have been cast on a ballot
10 card voting system that is not designed to allow the counting and
11 tabulation of votes by the precinct election board. The circuit court
12 clerk shall, upon request, furnish to the media in the area the results of
13 the tabulation.

14 (c) This subsection applies if the votes have been cast on a ballot
15 card voting system that is designed to allow the counting and tabulation
16 of votes by the precinct election board. Upon receiving the certificate
17 for the media prepared under section 2(c) of this chapter, the circuit
18 court clerk shall deliver the certificate to any person designated to
19 receive the certificate by the editors of the newspapers published in the
20 county or by the managers of the radio and television stations operating
21 in the county.

22 (d) If a precinct election board administers more than one (1)
23 precinct, the precinct election board or circuit court clerk shall keep the
24 ballots cast in each precinct separate from ballots cast in any other
25 precinct, so that the votes cast for each candidate and on each public
26 question in each of the precincts administered by the board may be
27 determined.

28 SECTION 29. IC 3-14-2-16, AS AMENDED BY P.L.103-2005,
29 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 UPON PASSAGE]: Sec. 16. A person who knowingly does any of the
31 following commits a Class D felony:

32 (1) Applies for or receives a ballot in a precinct other than that
33 precinct in which the person is entitled to vote.

34 (2) Except when receiving assistance under IC 3-11-9, shows a
35 ballot after it is marked to another person in such a way as to
36 reveal the contents of it or the name of a candidate for whom the
37 person has voted.

38 (3) Except when offering assistance requested by a voter in
39 accordance with IC 3-11-9, examines a ballot that a voter has
40 prepared for voting or solicits the voter to show the ballot.

41 (4) Receives from a voter a ballot prepared by the voter for
42 voting. ~~except: This subdivision does not apply to any of the~~

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following:

- (A) The inspector.
- (B) A member of the precinct election board temporarily acting for the inspector.
- (C) A member or an employee of a county election board (acting under the authority of the board and state law) or an absentee voter board member acting under IC 3-11-10. ~~or~~
- (D) A member of the voter's household, an individual designated as attorney in fact for the voter, or an employee of:
 - (i) the United States Postal Service; or
 - (ii) a bonded courier company;
 (acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company) when delivering an envelope containing an absentee ballot under IC 3-11-10-1.
- (5) Receives a ballot from a person other than one of the poll clerks or authorized assistant poll clerks.
- (6) Delivers a ballot to a voter to be voted, unless the person is:
 - (A) a poll clerk or authorized assistant poll clerk; or
 - (B) a member of a county election board or an absentee voter board acting under IC 3-11-10.
- (7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or assistant poll clerk.
- (8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter.
- (9) Delivers an absentee ballot prepared by the voter for voting to a county election board. ~~except for.~~ **This subdivision does not apply to any of the following:**
 - (A) The inspector.
 - (B) A member of the precinct election board temporarily acting for the inspector.
 - (C) A member or an employee of a county election board (acting under the authority of the board and in accordance with state law) or an absentee voter board member acting under IC 3-11-10. ~~or~~
 - (D) A member of the voter's household or an individual designated as attorney in fact for the voter, an employee of:
 - (i) the United States Postal Service; or
 - (ii) a bonded courier company;

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(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company) when delivering an envelope containing an absentee ballot under IC 3-11-10-1.

(10) Possesses an unmarked absentee ballot on or before the date of the election for which the absentee ballot has been printed, unless the person is authorized to possess the absentee ballot under this title as any of the following:

(A) A printer, when arranging for the delivery of unmarked absentee ballots to a county election board under IC 3-11-2.

(B) A county election board member or employee (acting under the authority of the board and in accordance with state law).

(C) An absentee voter board member.

(D) An employee of:

(i) the United States Postal Service; or

(ii) a bonded courier company;

(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company) when delivering an envelope containing an absentee ballot.

(E) An individual authorized under IC 3-11-10-24 to deliver an absentee ballot.

(F) An absentee ballot counter under IC 3-11.5.

~~(G) A provisional ballot counter.~~

~~(H)~~ (G) A precinct election officer.

~~(H)~~ (H) The voter who applied for the absentee ballot.

(11) Completes or signs an absentee ballot application for a voter, or assists a voter in completing an absentee ballot application in violation of IC 3-11.

SECTION 30. IC 3-14-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. A precinct election officer at the close of the polls **or** an absentee ballot counter acting under IC 3-11.5-5 or IC 3-11.5-6 **or** a ~~provisional ballot counter acting under IC 3-11.7-5~~ who knowingly:

(1) causes the vote to be incorrectly taken down for a candidate or public question; or

(2) makes a false statement, certificate, or return of any kind of that vote;

commits a Class D felony.

SECTION 31. IC 3-14-4-8, AS AMENDED BY P.L.221-2005, SECTION 139, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A member of a precinct

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1 election board **or** an absentee ballot counter appointed under
 2 IC 3-11.5-4-22 **or** a **provisional** ballot counter appointed under
 3 ~~IC 3-11.7-3~~ who knowingly:

4 (1) opens or marks, by folding or otherwise, a ballot presented by
 5 a voter, except as provided by law; or

6 (2) tries to find out how the voter voted before the ballot is
 7 deposited in the ballot box or cast on a ballot card voting system
 8 or an electronic voting system or counted by the absentee ballot
 9 counter;

10 commits a Class D felony.

11 SECTION 32. THE FOLLOWING ARE REPEALED [EFFECTIVE
 12 UPON PASSAGE]: IC 3-5-2-40.6; IC 3-5-2-40.7; IC 3-10-1-10.5;
 13 IC 3-11-8-23.5; IC 3-11-8-27.5; IC 3-11.7.

14 SECTION 33. **An emergency is declared for this act.**

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